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**U.S. Customs and
Border Protection**

AUG 21 2009

MEMORANDUM FOR: Customs and Border Protection Staff
San Diego Sector
San Diego Ports

FROM:

for (b)(6)(b)(7)(C)
Acting Chief Patrol Agent
San Diego Sector (b)(6)(b)(7)(C)
(b)(6)(b)(7)(C)
Director, Field Operations
San Diego Field Office

SUBJECT: Voluntary Return of Unaccompanied Mexican Children through
the San Ysidro Port Enforcement Team

All Unaccompanied Alien Children (UAC) arrested by the San Diego Sector Border Patrol between the ports requesting and eligible for a voluntary return to Mexico are to be removed through the San Ysidro Port of Entry (SYS) using the Port Enforcement Team (PET). The guidance below is issued to Customs and Border Protection Officers and Border Patrol Agents, jointly, by their respective chains of command to better coordinate UAC removals through SYS.

CBP Officers assigned to the PET are responsible for:

- Coordination with Mexican Consular officers for the return of UAC to Mexico; and
- Retention of copies of all paperwork relating to any UAC arrested by the Border Patrol and repatriated through PET.

PET officers are not responsible for the correct disposition or processing of any UAC arrested by the Border Patrol between the Ports of Entry,

Border Patrol Agents are responsible for:

- Complete, accurate and timely processing of all UAC apprehensions;
- The complete processing of all UAC prior to delivery at the PET;
- Supervisory review and approval of all UAC immigration paperwork; and
- Making a custody determination consistent with policy.

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The PET is responsible for receiving all complete paperwork with the alien child to include copies of the following:

- I-216, Record of Persons and Property Transferred;
- I-213, Record of Deportable/Inadmissible Alien;
- I-770, Notice of Rights and Disposition; and
- CBP Form 93 Unaccompanied Alien Child Screening Addendum.

All Border Patrol Agents must be familiar with current department and agency policies pertaining to the arrest, processing and removal of UAC.

Border Patrol Managers are responsible for ensuring that all agents/officers are provided the required training and guidance governing UAC. Below is a synopsis of that guidance as it relates to UAC Voluntary removals through the PET.

The term Unaccompanied Alien Children (UAC) is defined by section 462(g) of the Homeland Security Act of 2002 as a child who:

- has no lawful immigration status in the United States;
- has not attained 18 years of age;
- has no parent or legal guardian in the United States; and
- has no parent or legal guardian in the United States available to provide care.

(Note: An alien child with a parent or legal guardian residing in the U.S. is not defined as a UAC.)

If CBP establishes that a UAC is inadmissible or deportable the juvenile can be:

- voluntarily returned to the cross-border country;
- allowed to withdraw his/her application for admission (at POE); or
- detained or released on bond into the custody of a sponsor pending removal proceedings.

CBP may allow a UAC who is a national or habitual resident of a country that is contiguous with the United States (i.e. Canada and Mexico) to withdraw the application for admission or be voluntarily returned if CBP determines that all three of the below-listed criteria exist:

- The UAC is able to make an independent decision to request voluntary return (over 14);
- The UAC does not have a credible fear of returning due to persecution; and
- The UAC has not been a victim of trafficking in persons and there is no credible evidence that the UAC is at risk of being trafficked upon return.

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If CBP determines that the UAC meets all of the above criteria, then the UAC may be processed as a withdrawal or voluntary return. Current policies regarding repatriation, as outlined by local Repatriation Agreements, remain in effect. UAC must be returned to appropriately trained officials of contiguous countries during reasonable business hours.

If a UAC does not meet all of the above criteria or if CBP cannot make a determination within 48 hours of apprehension of the UAC, then the UAC shall be placed in removal proceedings under section 240 of the INA. If it is believed that UAC does not fully understand his/her rights, then removal proceedings will be initiated under section 240 of the INA and the UAC will be transferred to the custody of the Office of Refugee Resettlement custody. The basis for all determinations regarding independent decisions will be annotated in the narrative of Form 1-213.